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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/376,654	08/18/1999	ALAN FOLMSBEE	5437-076/P41	6747
25920	7590	12/15/2004	EXAMINER	
MARTINE & PENILLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085			LANIER, BENJAMIN E	
			ART UNIT	PAPER NUMBER
			2132	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/376,654	Applicant(s) FOLMSBEE, ALAN	
	Examiner Benjamin E Lanier	Art Unit 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,13,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,13,17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 August 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment file 30 August 2004 cancels claims 2, 5-12, 14-16, and 19-26. Claims 1, 3, 13, 17, and 18 are amended and fully considered.

Response to Arguments

2. Applicant's arguments filed 30 August 2004 have been fully considered but they are not persuasive. Applicant's argument that the Kobus reference does not disclose having the processing unit chip of the claims as amended is not persuasive because The electronic key contains a central processing unit chip with processing circuitry, a error correcting circuitry, and RAM (Fig. 5).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 4, 13, 17, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobus, U.S. Patent No. 4,864,949. Referring to claims 1, 3, 4, 13, 17, 18, Kobus discloses a software usage system wherein to prevent end users from patching protected software intentional errors are inserted into the software or function program so that in order for the software to function properly on the end user computer system, an electronic key is to be used in connection with the computer system (Abstract), which meets the limitation of instructions provided to a processor include an intentional introduction of errors which are correctable with error correction

algorithms, said correction algorithms pre-selected according to the key. The electronic key contains a central processing unit chip with processing circuitry, a error correcting circuitry, and RAM (Fig. 5), which meets the limitation of a central processing unit chip, processing circuitry on said chip, a programmable error correcting circuit on said chip, RAM on said chip storing error correcting information, said RAM being in communication with said programmable error correcting circuit. The key connected to the computer operating the software permits transfer of data signals from the computer to the key and back from the key to the computer. Circuitry is provided in the key for recognizing predetermined ones of security message portions in the software program and in response to such recognition for modifying such portions and for supplying the modified portions form the key back to the computer whereupon the computer generates new predetermined encrypted security message portions for storage in the software as replacements for the original security message portions. These replacement portions then are subsequently utilized in ongoing operation of the software to generate further replacements on a continuous basis. At random intervals comparisons are made of the security message portions which are stored in the software with the message portions supplied to the key. If the comparison is valid, the computer program is permitted to continue to operate error free. If the comparison is invalid the program with unnullled pre-set errors in it is executed to cause failure of operation (Col. 4, lines 5-40 & Col. 11, lines 42-65), which meets the limitation of the programmable error correcting circuit receives said error correcting information and processor instructions containing errors that are not capable of being executed by said processing circuitry, said programmable error correcting circuit generates corrected processor instructions in response to said processor instructions containing errors and said error correcting information, the corrected processor

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instructions being capable of being executed by said processing circuitry, said error correcting information includes an key that enables selection of error correction specific to an error scheme used to generate said errors, wherein information provided in compiled computer program data in part controls said error correction, thereby providing complementary error correction with a combination of the error correction key and the information provided in the compiled computer program data.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin E Lanier whose telephone number is 571-272-3805. The examiner can normally be reached on M-Th 7:30am-5:00pm, F 7:30am-4pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Benjamin E. Lanier



GILBERTO BARRON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100